CHAPTER 11: NONPROGRAM LOANS *[7 CFR 3550.74]*

11.1 INTRODUCTION

A nonprogram loan is an extension of credit to a borrower who does not qualify for program credit, or an extension of credit to allow a buyer to purchase a property that does not qualify as a program property. The Agency will make nonprogram loans to:

- Allow the assumption of an existing program loan on new rates and terms; or
- Expedite the sale of a Real Estate Owned (REO) property.

Unless otherwise specified in this chapter, nonprogram loan applications should be accepted, evaluated, and closed following the procedures described for Section 502 loans in Chapters 2 through 10. For a summary of the differences between program and nonprogram loans, see Attachment 11-A.

A. Nonprogram Assumptions

When an existing Agency borrower wishes to sell a security property, the Agency will assist that borrower by allowing any creditworthy buyer to assume the outstanding Section 502 debt, even if the purchaser is not eligible for a program loan or the property does not qualify as a program property. This helps the borrower sell the property and reduce the chances that the borrower will default without requiring the Agency to obligate new funds. The amount assumed is reamortized over a full new loan period.

> **Same Rate and Terms Assumptions**
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> In certain cases, generally those involving transfers of title between family members, a loan may be assumed under the same rates and terms by someone who is not program-eligible. However, such a loan is not considered a nonprogram loan.

B. Nonprogram Loans to Purchase REO Property

When the Agency has REO property to dispose of and funding is available, credit may be extended on nonprogram terms in order to facilitate the sale of the property. Field Staff should consult with the State Office to ensure that funds for nonprogram REO sales are available before offering credit. Nonprogram credit may only be offered after the expiration of any restriction period on program properties. Chapter 16 provides additional guidance on REO sales.

11.2 PRE-QUALIFICATION

The pre-qualification step is substantially the same as for program loans, as described in Section 1 of Chapter 3. When a potential applicant expresses interest in nonprogram credit, the Loan Originator explains the Agency's nonprogram requirements and uses UniFi to determine whether the potential applicant has adequate repayment ability. Although the potential applicant may submit an application regardless of the outcome of the pre-qualification, this step can save the applicant and Agency staff time in the long run by letting potential applicants know in advance about any reasons they may not be eligible for a nonprogram loan.

11.3 APPLICATION PROCESSING

This step is substantially similar to the process for a program loan described in Section 2 of Chapter 3. The nonprogram applicant must submit *Form RD 410-4, Uniform Residential Loan Application*. The Loan Originator then determines whether the application is complete, asks followup questions needed to understand the applicant's situation, and conducts a preliminary credit check, as described in Paragraph 4.12. The Loan Originator then makes a preliminary eligibility determination and notifies the applicant.

Unlike applicants for program loans, applicants for nonprogram credit must submit a nonrefundable $100 application fee. The application fee is waived for applicants who are public bodies or nonprofit organizations.

11.4 ELIGIBILITY

Nonprogram applicants are not subject to the income eligibility, asset, citizenship, or occupancy requirements described in Chapter 4 for program borrowers. They may own other properties and are not required to first seek private sources of financing. However, they must comply with other requirements found in Section 4 of Chapter 4 relating to responsible maintenance, legal capacity, truthful applications, and suspension or debarment, and must meet the credit requirements outlined in Section 3 of Chapter 4.

11.5 PROPERTY REQUIREMENTS

Properties financed with nonprogram loans are not required to meet the site and dwelling requirements described in Sections 1 and 2 of Chapter 5, but are required to meet the environmental requirements described in Section 3 of Chapter 5. Chapter 16 describes disclosure and documentation requirements for REO properties being disposed of that are not decent, safe, and sanitary or that may contain hazards.

11.6 UNDERWRITING THE LOAN

A. Down Payment Requirement

Nonprofit organizations and State and local governments are not required to contribute a down payment. Other nonprogram applicants are required to make a down payment. Nonprogram borrowers who intend to occupy the property must contribute 2 percent of the purchase price. Nonprogram borrowers who do not intend to occupy the property must contribute 5 percent of the purchase price.

B. Amount to be Financed

For assumptions, Agency credit is limited to the lesser of the sales price or the amount of the existing borrower's outstanding debt, less the purchaser's down payment. If the purchaser requires additional funds to purchase the property, the funds must come from another source.

For REO sales, Agency credit is limited to the sales price, less the purchaser's down payment. Closing costs and fees, tax service fees, and any required initial deposit to the escrow account cannot be financed.

C. Interest Rate

The interest rate charged for nonprogram loans is the nonprogram rate in effect at the time of loan approval. Nonprogram rates can be found in Exhibit B of RD Instruction 440.1.

D. Loan Repayment Period

The repayment period for nonprogram loans depends on whether the applicant intends to personally occupy the property.

For nonprogram applicants who intend to personally occupy the property, the maximum loan term is 30 years. If an applicant already has a nonprogram loan, a new 30-year loan is not permitted, even if the applicant intends to occupy the new property.

For nonprogram applicants who do not intend to personally occupy the property, the maximum loan term is 10 years. If more favorable terms are necessary to facilitate the sale, the loan may be amortized over a period of up to 20 years, with payment in full due not later than 10 years from the date of closing.

E. Repayment Ability

Chapter 7 provides detailed guidance on the use of the principal, interest, taxes, and insurance (PITI) and total debt (TD) ratios. For nonprogram applicants the ratios permitted depend upon whether the applicant intends to personally occupy the property. For nonprogram applicants who intend to personally occupy the property, the PITI ratio must not exceed 33 percent of repayment income, and the TD ratio must not exceed 41 percent. For nonprogram applicants who do not intend to occupy the property, the TD ratio must not exceed 41 percent. No analysis of the PITI ratio is required.

11.7 LOAN APPROVAL AND CLOSING

As with program loans, once the Loan Originator has completed the underwriting analysis, loans recommended for approval are forwarded to the Loan Approval Official. When the loan is approved, the applicant selects a closing agent who conducts title clearance, reviews security requirements to verify that they conform to the Agency's standards, and works with the Loan Originator to ensure that all required closing documents are prepared for signature at closing.

Because the same closing forms are used for both program and nonprogram borrowers, the Loan Originator must modify the security instruments, promissory note, and, if applicable, the assumption agreement to delete:

- Any conditions related to financing or refinancing with other credit, restrictions on leasing, and consent to junior lien encumbrances; and

- Any references to borrower eligibility for payment subsidies and special servicing actions.

Chapter 8 provides detailed instructions for closing both program and nonprogram loans.

11.8 SERVICING NONPROGRAM LOANS

After closing, the Loan Originator activates the loan in FASTeller and prepares a loan docket to send to the Centralized Servicing Center (CSC) for servicing, as described in Chapter 8. Nonprogram borrowers are not subject to periodic reviews of their ability to refinance with private credit and are not eligible for payment subsidies, moratoriums, or subsequent loans.

ATTACHMENT 11-A

SUMMARY OF DIFFERENCES BETWEEN PROGRAM LOANS AND NONPROGRAM LOANS

Topic	Section 502 Program Loan	Nonprogram Loan
Income	Borrower must not be above low-income at loan approval and must not be above moderate-income at loan closing.	No income eligibility restrictions.
Application	No application fee.	$100 application fee except from public bodies or nonprofit organizations.
Interest Rate	Promissory note rate is the lower of the program rate in effect at loan approval and loan closing. Program interest rate is used.	Promissory note rate is the nonprogram rate in effect at loan approval. Nonprogram interest rate is used.
Payment Subsidy	Borrower may be eligible for payment subsidies.	No payment subsidy available.
Loan Term	Standard term is 33 years; some may qualify for a 38 year term.	Maximum term for an occupant is 30 years; maximum term for a nonoccupant is 10 years.
Down Payment	Borrowers required to contribute nonretirement assets above $7,500 (above $10,000 for elderly borrowers) and retirement assets in excess of the applicable adjusted median income.	Purchasers who will be occupants are required to contribute 2 percent of the purchase price as a down payment. Purchasers who will be nonoccupants must contribute 5 percent.
Repayment Ability	Very low-income borrowers must not exceed a 29 percent principal, interests, taxes, and insurance (PITI) ratio, and 41 percent total debt (TD) ratio. Low-income borrowers must not exceed a 33 percent PITI ratio, and 41 percent TD ratio.	Borrowers who will personally occupy the property must not exceed a 33 percent PITI ratio and 41 percent TD ratio. Borrowers who will not personally occupy the property must not exceed a 41 percent TD ratio.

Topic	Section 502 Program Loan	Nonprogram Loan
Closing Costs	Closing costs may be financed with Agency funds to the extent that the total debt does not exceed the property's market value and the section 203(b) limits.	Closing costs cannot be financed with Agency funds.
Escrow Fees	Initial escrow deposit, tax service fee, and appraisal fee may be financed with Agency funds, even if these amounts cause the loan to exceed the market value of the property or the section 203(b) limit.	Initial escrow deposit, tax service fee, and appraisal fee cannot be financed with Agency funds.
Eligibility for Servicing Actions	Borrowers are eligible for a variety of servicing actions, including payment subsidies.	Payment moratoriums, payment subsidies, and subsequent loans are not permitted. If both the borrower and property are eligible, the loan may be refinanced with Agency credit to permit payment assistance.
Refinancing with Private Credit	Borrower must refinance with private credit when able to do so.	No requirement for refinancing with private credit.
Leasing Restrictions	Borrower cannot lease property for more than 3 years and cannot offer the renter an option to purchase.	Borrower may lease property for any period of time, and with purchase options.